EXECUTIVE SESSION

NOMINATION OF RICHARD CORDRAY TO BE DIRECTOR, BUREAU OF CONSUMER FINANCIAL PROTECTION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. REID. I ask that a quorum be called and the time be equally divided between the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. This morning the Senate will vote whether the new Consumer Financial Protection Bureau should be able to put a director in place before concerns about its accountability to the American people are addressed. Let me stress that is all today's vote is about. Today's vote is about accountability and transparency. It is a debate about whether we think Americans need more oversight over Washington or less.

Republicans made our position clear more than 7 months ago when 44 of us signed a letter saying we will not support a nominee for this Bureau, no matter who the President is, until three commonsense conditions are met that would bring some transparency and accountability to the CFPB. That letter now has 45 signatories.

The President knew about these concerns months ago and he chose to dismiss them. Now he is suddenly making a push to confirm his nominee because it fits into some picture he wants to paint about who the good guys are and who the bad guys are here in Washington. So, once again, Democrats are using the Senate floor this week to stage a little political theater. They are setting up a vote they know will fail so they can act shocked about it later. This is what passes for leadership at the White House right now.

The President has made his choice about how to deal with this issue, and we have made ours. What we have said is that until this or any other President addresses these legitimate concerns, we cannot and will not support a nominee. Here is what we said in that letter 7 months ago: First, replace the single Director with a board of directors who would oversee the Bureau. Second, subject the Bureau to the congressional appropriations process. Third, allow other financial regulators to provide a check on CFPB rules so they don't imperil the health of financial institutions and lead to unnecessary bank failures.

Look, everybody supports strong and effective oversight, but that has to include the overseers as well. Unelected bureaucrats must be held accountable to the American people, and that is exactly what our proposal would do. So it is up to the President. Republicans have outlined our concerns and they are well known. We are not going to let the President put another unelected czar in place, unaccountable to the American people. And, frankly, his refusal to work with us only deepens our concerns. The CFPB requires reforms before any nominee can be confirmed. It is time the President takes these concerns seriously.

I look forward to hearing from the President on this issue so we can put in place the kind of oversight and accountability the American people expect in an agency of this size and this scope. Until then, I will vote against this nominee for the CFPB and any others that this or any other President sends until he works to fix the problems, until he brings transparency to this bureaucracy and accountability to the American people.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I rise today in opposition to the motion to invoke cloture on the nomination of Richard Cordray to be the Director of the Bureau of Consumer Financial Protection.

Earlier this year, I and 44 of my colleagues sent a letter to the President expressing our concerns with the unaccountable structure of the Bureau. It is now 7 months later and the President has yet to respond.

The majority has called for a vote they know will fail today. It is evident the White House and the majority have decided to place politics ahead of good policy. They have chosen to fabricate a political issue rather than do what is in the best interests of consumers. Nonetheless, they claim this debate is about consumer protection.

There is no disagreement, however, that consumer protection, as the Acting President pro tempore knows, needs to be enhanced. The only real point of contention is whether the new Bureau of Consumer Financial Protection will be accountable to the American people.

If we believe regulators never fail, then the current structure of the Bureau is just fine. Yet we all know regulators do fail and their failures harm consumers.

Members of the majority, I believe, have repeatedly made this point with their criticism of the Fed's failure to regulate subprime mortgages and the OCC's preemption of State consumer protection laws.

I strongly agree with the majority that our regulators failed to do their jobs in the lead-up to the financial crisis. But the lesson we should learn from the financial crisis is not that we need more unaccountable regulators. Instead, all of our financial regulators need to be held more accountable.

Just as banks should be held accountable for their failures, regulators should also be held accountable for theirs. After all, if regulators know Congress can hold them accountable, they will have a far stronger incentive to do their jobs. That will be good, as we all know, for consumers. That is why, if the Bureau is reformed, the biggest winners will be the American consumers.

Today, however, the majority will show that they are now more concerned with insulating bureaucrats from accountability and rewarding political allies than looking out for consumers. The administration and the majority will try to argue that the Bureau already is accountable. Indeed, they will say it is more accountable than any other financial regulator. But let's look at the facts. The facts tell a different story.

First, it is necessary to appreciate the amount of power placed in the hands of the Director of this Bureau. No bureaucrat will have more power over the daily economic lives of Americans than this Director. The Director, in effect, will decide which Americans can access credit to buy homes, purchase cars, and pay for college. The Director will regulate not only financial companies but also tens of thousands of Main Street businesses. Also, the Director will unilaterally decide how the Bureau spends its up to $600 million budget.

Despite the vast power vested in the hands of the Director, there are no effective checks on the Director's authority. To truly understand just how unusual the structure of the Bureau is, one need only compare it to other independent agencies.

Unlike the Chairman of the SEC, the CFTC, and the Federal Reserve, the Director of the Bureau does not have to obtain the agreement of other board members or other government officials before acting. Unlike other consumer protection agencies, the Bureau is not subject to the congressional appropriations process. Indeed, other consumer protection agencies, such as the Federal Trade Commission and the Securities and Exchange Commission, are both subject to appropriations and are governed by five-member boards.

To further ensure against one party domination, the FTC and the SEC can have no more than three members from the same political party. Another important comparison is with the Consumer Product Safety Commission. This agency actually served as the template for Professor Warren when she first advocated for the creation of a consumer protection agency in an article several years ago. How is the Consumer Product Safety Commission structured? It is, first, funded through appropriations, and there is a five-member commission.

Opponents of accountability have sought to justify the structure of this Bureau by pointing to the Office of the Comptroller of the Currency and the Federal Housing Finance Agency. Once again, the facts refute their argument.

First, the Comptroller can be removed at any time by the President for any reason. In contrast, the President can remove the Director of the Bureau only for limited grounds of ''inefficiency, neglect of duty or malfeasance.'' This means the Director of the Bureau cannot be removed even if the Director pursues policies that are harmful to the American people. How is that good for consumers?

As for the Federal Housing Finance Agency, its Director is far less powerful than the Director of the Bureau. The Director of the Federal Housing Finance Agency oversees the regulation of only 14 financial institutions. He does not have sweeping powers over all consumers and tens of thousands of Main Street businesses like the Director of the Bureau would have.

It should be common sense that the more power an agency has, the more accountable it needs to be. Moreover, rather than attempting to point to other regulators to justify the structure of the Bureau, a more responsible approach would be to make all of our financial regulators more accountable. And we should begin right here with the Bureau.

To make the Bureau more accountable, we have proposed three commonsense reforms.

First, the Bureau should be led by a board of directors, as I have said. This is such a commonsense measure that the President and the Democratic-controlled House originally called for the consumer agency to be structured as a commission.

Second, the Bureau's funding should be subject to congressional appropriations.

Currently, the Federal Reserve is required to transfer up to $600 million to the Bureau each year. These are funds that could otherwise be remitted to the Treasury and used for deficit reduction or other things. Diverting this money to fund an unaccountable Federal agency sets a dangerous precedent of using the Federal Reserve as an off-budget mechanism for funding programs. It had not happened before.

In addition, funding the Bureau through the Fed removes any check on runaway spending. I believe the fiscally responsible way to fund the Bureau is through the congressional appropriations process just as every other consumer protection agency is funded.

Our third reform proposal is to create an effective safety and soundness check for the prudential bank regulators.

Some have said the Bureau already has a check under the so-called Financial Stability Oversight Council veto. But this veto was designed so it would never actually constrain the Bureau. The council can only overturn a rule in an extremely rare case: The rule must put at risk the safety and soundness of the entire U.S. banking system or the stability of the U.S. financial system.

Under this construct, a rule could cause the failure of multiple banks, but the council still would not have standing to alter the rule. Additionally, the procedure is rigged to prevent the council from acting. It takes an affirmative vote of at least two-thirds of the council's members to set aside one of the Bureau's rules, and the Bureau's Director is a voting member of the council.

In addition, only 3 of the council's 10 members are actually bank prudential regulators. This veto is not a check on the powers of the Bureau. It is a sham that they have today. We need to change that.

Recent history shows that taxpayers are ultimately on the hook for bank failures. For this reason, consumer protection needs to be carefully coordinated with bank regulation to prevent against unnecessary bank failures.

As presently structured, the Bureau can ignore any advice offered by banking regulators, even if it undermines the safety and soundness of banks. Unless this structural flaw is remedied, a real possibility exists that the consumer bureau will one day cause bank failures that end up harming consumers, taxpayers, and our economy.

In light of the reasonableness of the reform proposals we have requested, the question remains: Why are the administration and the majority so insistent that the Bureau be unaccountable?

Clearly, they want to use the Bureau as a political issue. A second reason is that they believe nonbank financial institutions are not currently regulated. But this is false. The Federal Trade Commission, the State attorneys general, and State financial regulators all have authority over nonbanks. A more likely reason for today's vote is that the Bureau will provide funding to key liberal activists, such as ACORN.

Other agencies must return to the Treasury funds what they receive from enforcement actions. This consumer bureau, as now structured, is allowed to dole out money it collects from fines and penalties to liberal consumer groups. This reveals why the administration and the majority want so desperately for the Bureau to be unaccountable. They want the Bureau to be a permanent funding machine for their political allies.

Finally, we are going to hear that our methods to achieve reform are unprecedented in the history of the Senate. It has been said:

> Never before has the consideration of a nominee been conditioned on a change in the law.

This, of course, is ridiculous on its face. It is nonsense. Nominees are held routinely in the Senate by both parties, for any number of reasons, including the desire to make changes in existing law. The only thing different in this particular case is that it is completely transparent. No secret backroom deals. We are right here in the open.

After all the harm caused to consumers by financial regulators, it is time the majority stops using consumer protection as a political football and starts taking actions that actually help consumers. We can take the first step by reforming the Bureau to make it accountable to the very consumers it purports to protect.

Until that time, however, we cannot, we should not, and we will not move forward on the nomination of the Director to lead this massive and unaccountable bureaucracy. I urge my Democratic colleagues to stop obstructing reform and join with us to move forward on real consumer protection.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to be recognized for 5 minutes at the conclusion of Senator JOHNSON's remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSON of South Dakota. Mr. President, 2 months ago the Senate Banking Committee voted along party lines to send to the full Senate the nomination of Richard Cordray to be the first Director of the Consumer Financial Protection Bureau. Due to an unprecedented and irresponsible display of political gamesmanship, Mr. Cordray's nomination and strong protections for American consumers are being held hostage.

Before any candidate was put forth, Senate Republicans pledged to block the nomination, and their objections have nothing to do with Mr. Cordray's qualifications, his politics, or his character. Republican Senators have actually admitted as much, with a public pledge to block any nominee for the new consumer agency until a list of legislative demands, which would greatly weaken the agency, are met. That those demands were debated and rejected by a bipartisan Congress last year is beside the point. The minority party is distorting the Senate confirmation process, mandated by the Constitution, to rewrite a law against the wishes of the American people.

Why do Senate Republicans remain opposed to consumer protection despite national surveys showing 3-in-4 bipartisan voters support the new agency's creation? Whatever the motivation, it appears to outweigh any concerns about protecting families buying homes, students borrowing for college, and service members or older Americans falling prey to financial scams.

This vocal minority opposed to strong consumer protection and helped by special interests have drummed up misleading claims to hide behind. They claim the CFPB Director will put the economy at risk—ignoring the effects of the foreclosure crisis, which was itself fueled by irresponsible and predatory lending. They claim the agency lacks accountability—ignoring the fact that it is bound by accountability measures comparable to or exceeding that of other independent financial regulators. And they claim restrictions on abusive financial products will hurt lenders—ignoring the damage those products inflicted on consumers tricked into signing unfair contracts filled with hidden fees and penalties.

In reality the CFPB was created as an accountable yet independent regulator in bipartisan negotiations last year. Its mission is to protect consumers—by cracking down on predatory lenders and streamlining disclosures so families can make better informed financial choices. But until it has a confirmed director in place, the CFPB's authority over nonbank financial institutions, like private student lenders and mortgage brokers, will be stifled. Every day Mr. Cordray's confirmation is blocked, vital protections are delayed, millions of Americans—including service members, veterans and older Americans—are left vulnerable, and the Nation's community banks and credit unions remain at a disadvantage to their less-regulated competitors.

The question we consider today should not be whether the minority party can hijack this constitutional process and demand as ransom legislative changes that would hamstring the consumer agency. The question should be whether Mr. Cordray is qualified for the job. And I believe that Mr. Cordray is an outstanding candidate. For years Richard Cordray has worked tirelessly as a public servant. As Ohio's Attorney General he aggressively pursued financial crimes by banks and mortgage firms, and won more than $2 billion in settlements for the State. And as Ohio's first solicitor, he argued cases before the Supreme Court to protect consumers and enhance the quality of our financial markets.

American families paid a steep price for the financial crisis, battered by layoffs and foreclosures. Yet incredibly, many of the bad actors that contributed to the crisis remain poorly regulated and continue to lobby against tougher regulation. Congress created the CFPB to protect consumers and clean up the marketplace, but it needs a director. Richard Cordray has proven himself capable for the job, and there is no legitimate reason to block his confirmation.

I urge my colleagues to reconsider their political game playing and do the right thing.

Stop blocking Richard Cordray's nomination and allow him to have an up or down vote.

I yield to my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I wish to thank the chairman for his leadership on this important issue and so many others before the Banking Committee.

Since September 2008, we have learned many hard lessons about the factors that contributed to the financial crisis. To address systemic risks and to fix the system, we passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. One of the most important reforms we made in that legislation was the creation of the Consumer Financial Protection Bureau, or the CFPB. The CFPB is charged with stopping abusive mortgage originators, stopping abusive credit card companies, and stopping abusive private student loan lenders.

For years we have had organizations whose purpose was to protect the banking system and, indirectly, consumers. We need to provide a balance. Frankly, if we had this balance in place prior to 2008, we might have avoided some of the incredible costs we have seen not only to consumers but to the entire banking system as a result of predatory behavior by many different financial institutions.

Unfortunately, many of my Republican colleagues are trying not to correct deficiencies in the Dodd-Frank act or improve it. They want to gut it. One of the things they want to take out is consumer protection, and they want to do that by denying a nominee to head up this important agency.

It certainly is a prerogative of my colleagues to work on improving any piece of legislation, but effectively to say: We will not let legislation that has passed this body by 60 votes and that has ample precedent in the law to take effect because we won't put a person in charge is, I think, abusing the process.

We have worked on this issue, and we know consumers need these types of protections. We know that daily there are scams targeting the elderly. There are unscrupulous mortgage lenders and abusive payday lenders. Most financial firms are not like this—in fact, these individuals probably represent a very small minority of the financial community, but they are abusive predators, particularly to the most vulnerable people in our society.

There has been a lot of discussion about the 1 percent and the 99 percent. Well, guess what, the 99 percent are consumers, and the 1 percent are probably those people who are running some of these financial institutions, some of them fairly and scrupulously, but others who are not.

We want to protect consumers in this country—all of us—certainly the 99 percent, but because of Republican opposition of this nominee, we are running into a real problem. If we do not have a head of this organization, then it cannot effectively implement regulations and effectively enforce the laws it has been given the task to oversee and implement.

We have to have rules that apply across the country that get at the shadow banking system, that provide the kinds of protections consumers can rely on, and that, in fact, improve the operation of the marketplace. Again, I think some of the people who regret what happened the most in the 2007, 2008, 2009 time period are financial leaders looking around and saying: Why wasn't anyone checking the behavior of some of the financial companies out there that have ruined my marketplace and ruined my reputation? Well, we have to do that.

The longer Richard Cordray is blocked, the longer such disreputable practices in the financial marketplace can continue. And Richard Cordray is entirely qualified: as former treasurer of the State of Ohio, he knows the financial business and worked closely with banks at the Treasury, as former attorney general of Ohio, he worked to protect consumers, and as an individual, he has the intellect and the character to do an outstanding job. We have to get him in place.

Who suffers if we don't do this? Well, among those who are suffering are military personnel. I had the privilege of commanding a paratrooper company in the 82nd Airborne Division in the 1970s. I was an executive officer, and I handled all the complaints, all the dunning, all the letters that were coming in from my soldiers. It has gotten worse.

Holly Petraeus, who is the head of the Office of Servicemember Affairs at the CFPB, testified before the committee. She talked about Internet lenders who target military personnel—vulnerable soldiers and their families—who are about to deploy or who just came back from Afghanistan. They will give loans of up to 40 percent of a soldier's pay. Of course, the interest rate can be as high as 584 percent APR. We can't stop that until we get somebody such as Richard Cordray in charge of this organization.

She also talked about the dunning calls, 20 times a day, threatening them: We will go to your commander. We will have you court-martialed. We will take away your security clearance. We will ruin your career.

We have to stop that. This is about real people, real consumers. We have to confirm Richard Cordray.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I understand I have 5 minutes.

The PRESIDING OFFICER. There is no order. The Senator may use 5 minutes.

Mr. MENENDEZ. Thank you very much.

Let me first thank Chairman JOHNSON for his leadership in this regard and in so many other major issues before the Banking Committee. He has really exercised a lot of our oversight obligations in making sure we implement Wall Street reform in a way that protects all of us as taxpayers in the country but creates a system that can still let us economically flourish, and this is one of those.

For too long too many in Washington protected Wall Street from commonsense regulations and let consumers fend for themselves. For too long Republican economic policy, when it should have protected the 99 percent of American consumers from the reckless financial games that led us to the brink of economic disaster in 2008, protected the 1 percent on Wall Street instead.

Banks played Russian roulette with the future and economic security of middle-class families, and no one—no one—was watching. Backed up by too-big-to-fail government guarantees, they wreaked havoc on our economy and on the jobs and retirement savings of families who played by the rules.

We have lived through the unfortunate results of lax oversight, and now it is time to work together to correct it. It is time to stop the political games and govern. It is time to act. It is time to work together to make sure middle-class families get the protection they deserve and the watchdog they need.

This is really about whose side a person is on. Cordray and consumer protection are being blocked simply because Republicans want to protect Wall Street. Wall Street already has a legion of lobbyists protecting its interests. We need someone who can protect Main Street's interests, and that is what Richard Cordray would do as the Director of the Consumer Financial Protection Bureau.

Richard Cordray is an unquestionably well-qualified nominee, and no one is disputing that fact—no one. I have not heard anyone dispute his qualifications for the job. We know the Consumer Financial Protection Bureau would be off to a good start with Richard Cordray at the helm, despite efforts by special interests to derail the process. It will be a strong but fair agency under Richard Cordray—to protect financial consumers who are tired of being tricked by the fine print, the ''gotcha'' paragraphs that no one but a bank lawyer would understand.

Despite hysterical claims from Wall Street, the Bureau actually won widespread praise from both consumers and the industry for its first major initiative when it created a new and greatly simplified Know Before You Owe mortgage loan disclosure form so that consumers understand what kind of mortgage they are getting into before they take it. Had we had that type of language early on, maybe we wouldn't have had part of the crisis in which consumers were led to bad mortgage products—products that ultimately had skyrocketing interest rates—when they qualified for a conventional mortgage. Maybe we wouldn't be in the great predicament we have been in since 2008.

Under Wall Street reform, Richard Cordray will be there to prevent those families from being ripped off again. Fixing our broken system was not easy, and it is still not over. We are still fighting to keep the ground we have gained against special interests.

The longer this nomination is delayed, the more consumers will suffer. Without a Director, the Consumer Financial Protection Bureau cannot carry out some of its most vital functions, including regulating payday lenders, pawn shops, private student loan companies, those that make unscrupulous and predatory loans on our military families—we heard Senator REED, who has great experience in this, talk about that—giving them an unfair advantage at the same time as they do that over community banks and credit unions that are regulated, that are good and that play by the rules.

Now is a time to work together to make that happen. I ask that my colleagues stop playing games. Let us go to a final up-or-down vote on Mr. Cordray.

Republicans have continued to couple Mr. Cordray's nomination to weakening the Consumer Financial Protection Bureau, which is unprecedented. Never in Senate history has a nominee been opposed in the Senate because of opposition to the whole agency for which he or she has been nominated.

I say to my Republican colleagues, let's stop playing games with the protections American consumers need. Work with us to do the job we were elected to do and confirm this nominee. Work with us to protect consumers.

We have come a long way toward a middle ground in creating this agency with checks and balances to begin with. The time has come for Republicans to join us in governing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, there has been a lot of wild rhetoric, quite frankly, hyperbole, exaggeration. I wanted to try to bring this discussion and this debate back to reality. To do that, I wanted to remind folks that conservatives objecting to this nomination have, from the very beginning, laid out three very narrow, specific, concrete reforms we are seeking. So this notion that we are against consumer protection, we are trying to gut CFPB, is silly. Let's get back to reality. Let's get back to what we have said from the very beginning: We want these three important reforms.

First of all, we think it is very important for the single Director, a new czar quite frankly, a credit czar, to be replaced with a board to oversee this Bureau. That is how other comparable agencies operate. The best example—the best comparison—is the SEC. I think that is a critical check on the Bureau's authority to have a board that can discuss and come up with a consensus, not a single agency.

Secondly, related to that, there should be safety and soundness checks for the prudential financial regulators who oversee the safety and soundness of financial institutions. One of the core reasons we had the 2008 financial crisis is we had political agendas run amok with regard to financial institutions with no safety and soundness checks.

We are putting that same problem on steroids in this new all-powerful bureaucracy. Again, point No. 1, very specific, very concrete, very commonsense reform that we have proposed from the beginning is a safety and soundness check.

Third, and perhaps most important, the Bureau should be subject to the congressional appropriations process so there is some oversight and accountability from the American people and their representatives. That is the norm. That sort of check and balance, that oversight and accountability, is absolutely the norm. It is way outside the norm to have no oversight and accountability because, as it stands now, this new superbureaucracy has an unlimited check that it gets from the Federal Reserve—never has to get an appropriation, never has to answer a single question from the people or their representatives.

Again, the CFPB, as it sounds now, draws its budget directly from the revenue of the Federal Reserve. By the way, this revenue would otherwise be deposited into the Treasury paying down the debt. The CFPB is not just about mega institutions, mega banks—more hyperbole that has been thrown on the floor—but anyone, any business, for instance, that offers four or more payment installments and an installment plan.

Sure, that includes Citibank. It also includes your dentist, your vet, your local electronics store. CFPB right now is so unlimited in their authority that they are able to limit or prohibit the terms of any such product or service, has power over marketing of any such product or service in its jurisdiction with, again, the Federal Reserve as its basically unlimited piggy bank.

I think these concerns we have are pretty darn fundamental and have a lot of common sense in them. Again, we have three very specific, concrete reforms we want advanced. We are not trying to gut the CFPB. Those reforms would not gut it—not against consumer protection. Those reforms would still have a sound, strong consumer protection agency in place.

I think the American people deserve a more honest debate than, quite frankly, they are getting in a lot of this. This notion that if we are against ObamaCare, we are against all improvement of the health care system is silly. I think Americans get that as their health insurance premiums go up significantly now, by every accounting, by every independent source, well beyond what they would have gone up otherwise.

Being against that is not being against health care reform. We heard even earlier, if we are against the stimulus plan, we are against economic recovery. That is silly. I think Americans know that now that we are still stuck at very high unemployment. How is that recovery working out for everyone?

I was against the stimulus because I was for economic recovery, and it is the same thing here. We need to advance the interests of the American people, certainly including consumers. But we do not need an all-powerful, new czar in Washington who can hurt everyone, including consumers.

So we continue to advance three very specific, concrete, commonsense reforms. That is all we want. That does not gut CFPB. That is not against consumer protection. It is against unbridled, unprecedented authority. The American people, agency after agency, issue after issue, have seen the effects of that sort of unbridled, virtually unlimited Federal Government authority in the last 2 years. They do not like it.

Mr. RUBIO. Earlier this week in Kansas, President Obama tried to score political points by chiding Senate Republicans for refusing to vote on the confirmation of Richard Cordray to be Director of the so-called Consumer Financial Protection Bureau—CFPB—saying we refuse to let him do his job. And the President asked, Why? I am happy to answer his question, again.

Earlier this year, I joined 44 other Senators in recommending to the President three necessary reforms for the CFPB in order to improve accountability in its operations. Specifically, we asked that a board of directors be established to oversee it, that the agency be subjected to the regular congressional appropriations process, and for the establishment of a safety and soundness check for the prudential regulators.

We made clear to the President that without these reforms we would not vote to confirm any nominee to run the CFPB, regardless of political affiliation or qualifications. The President chose to ignore our suggestions. Although the President frequently pays lip service to accountability in the regulatory process, when push came to shove, he made this serious issue just another talking point.

President Obama is now trying to pressure my colleagues to vote to confirm Mr. Cordray by traveling around the country giving speeches. I want to reiterate that I will not vote to confirm any director for this rogue bureaucracy until appropriate checks and balances are put into place. President Obama promised that ‘‘transparency and accountability will be a hallmark of my administration’’, making his refusal to make CFPB more transparent especially disappointing.

Without reform, CFPB's director would serve with unprecedented and unconstitutional amounts of power. The director would have the power to decide what rules are issued in the name of consumer protection, how funds are spent, and how its enforcement authority will be used. In short, it empowers a single, unelected person with seemingly endless and unchecked authority. This bureaucracy holds the sweeping ability to limit choices when it comes to commonly-used financial products such as home equity loans, credit cards, and student loans. Simply put, a designation from the CFPB director saying these products are ‘‘abusive’’ could restrict the availability of credit to consumers and increase the cost of goods or services for all Americans.

This year alone, over 70,000 pages of new regulations have been added to the books from agencies such as the Environmental Protection Agency and the National Labor Relations Board, oftentimes without any compelling justification for their existence. The last thing job creators in America need is more uncertainty from a powerful government agency such as the CFPB that will receive a blank check for a half billion dollar budget with virtually no input from Congress.

President Obama has urged the American people to ‘‘help hold [him] accountable’’. I stand with my Republican colleagues in an effort to do just that. The truth is we need transparency in government that provides greater confidence that regulations are designed to protect consumers from unfair practices, without destroying jobs. Until basic transparency requests are made, I will not support allowing the CFPB to operate with unaccountable leadership.

Mr. CRAPO. Mr. President, both sides agree that everyone benefits from a marketplace free of fraud and other deceptive and exploitative practices. The disagreement is over the best way to structure our Federal regulatory agencies to accomplish this goal and provide accountability.

One of the lessons of the financial crisis is that we need a supervisory program that looks and considers how safety and soundness and consumer protection work together and reinforce better and safer services to banking customers. Far too often, supervision either looked at consumer issues in isolation—promoting access to credit and home ownership—or it looked at safety and soundness in isolation, such as ensuring that customer information was legally accurate but not asking whether it was understandable to bank customers.

We should have strengthened the link and coordination between prudential supervision and consumer protections rather than severing it. Instead Congress institutionalized this separation by creating a Consumer Financial Protection Bureau and blurred the role and accountability of the prudential regulators and the new Bureau.

Mortgage underwriting is a good example of an issue that was found lacking before the financial crisis and has the potential to be subject to an even more bureaucratic regulatory system going forward. I say potential because it is unclear to me where the authority of the Bureau stops and where the authority of the prudential regulators overlaps on several important issues that will likely cause confusion and potentially inconsistent regulatory approaches. Already we are seeing conflicts among regulators with different regulators adopting different consumer protection rules and duplication in examinations.

From my perspective, the new Bureau is a massive, expensive government bureaucracy that is immunized against meaningful oversight by either Congress or the President, and dramatically extends the Federal Government's control over the economy.

According to analysis from Andrew Pincus, a partner in the law firm Mayer Brown LLP:

> The Bureau's structure has a number of features that, when taken together, concentrate an amount of unchecked authority in a single individual—the Director—that is unprecedented for a federal agency that regulates private entities and individuals:
>
> First, the Bureau will be headed by a single Director with complete, unilateral authority to make all regulatory and enforcement decisions and to hire and fire all personnel, including his or her own deputy.
>
> Second, the Bureau's Director does not serve at the pleasure of the President. Rather, during his or her five-year term, the Director may be removed only for inefficiency, neglect of duty, or malfeasance in office. That standard eliminates the President's power to remove the Director based on a policy disagreement: once nominated and confirmed, the Director cannot be overruled by the President.
>
> Third, the Bureau is exempt from the congressional appropriations process. It is funded instead by a transfer of money from the Federal Reserve in an amount determined solely by the Director, subject only to a cap that already exceeds $550 million, will increase 10% for the next fiscal year, and is subject to automatic inflation adjustments thereafter.

While I appreciate the willingness of Richard Cordray to serve and answer questions, I can't support the consideration of any nominee to be the Director of the Bureau until the agency is reformed to make it more accountable and transparent.

First, we would establish a board of directors to oversee the Bureau. This would allow for the consideration of multiple viewpoints in decisionmaking and would reduce the potential for the politicization of regulations. A board of directors structure is consistent with the organization of the Federal Reserve

Board, National Credit Union Administration, FDIC, SEC, CFTC, and Federal Trade Commission.

Second, we would subject the Bureau to the congressional appropriations process to ensure that it doesn't engage in wasteful or unnecessary spending. This also gives Congress the ability to ensure that the Bureau is acting in accordance with our legislative intent. The SEC, CFTC, and the Federal Trade Commission have long been subject to the appropriations process for the same reasons.

Finally, we would establish a safety and soundness check. This would strengthen the link and coordination between prudential supervision and consumer protections.

Given the enormous impact the Bureau will have on the economy, it is important for Congress to revisit its structure and authorities to make it more accountable and transparent.

Mrs. MURRAY. Mr. President, I come to the floor to speak about the nomination of Richard Cordray to lead the Consumer Financial Protection Bureau and to urge my colleagues to join me in voting in support of his confirmation.

In July of last year, I was proud to join many of my colleagues in the Senate to pass comprehensive Wall Street reform legislation that is already working to protect middle-class families, hold Wall Street accountable, and put in place policies to make sure taxpayers will never again be left holding the bag for the big banks' mistakes. I supported this legislation because for far too long the financial rules of the road had not favored the American people. They were tilted toward big banks, credit card companies, and Wall Street, and they were twisted and abused to make sure no matter what happened, the financial industry would come out ahead.

When the economy was roaring, the big banks made enormous sums of money and handed out huge bonuses to their employees. But when the products they created brought down the banks and pulled Main Street down with them, it was the taxpayers who had to foot the bill to prevent absolute calamity. Wall Street had a pretty good system going for a while: Heads they won, tails the taxpayers lost. To correct this, we fought to pass Wall Street Reform last year over Republican objections, and we took a huge step in the right direction. We strengthened the rules. We increased the oversight. And critically, we created the first-ever agency dedicated to protecting middle-class families, seniors, and small business owners from the financial fraud and scams that have devastated so many.

The mission of this new Consumer Financial Protection Bureau is clear: to make sure that consumers come first—that the financial industry can no longer pull fast-ones on their customers—and, fundamentally, that the markets for consumer financial products and services actually work for all Americans. The CFPB's job is to help consumers understand the financial products that are being marketed to them every day because we know the big banks win when the American people don't understand the fine print. And it is to make sure that the financial firms are playing by the rules and to stand up for the American people and enforce those rules if consumers are being lied to, scammed, or cheated.

Over the last year the CFPB has been staffing up and ramping up and has already started working to protect consumers. But without a confirmed Director, they are simply unable to do everything possible to stand up for middle-class families. Their hands are tied. Without a confirmed Director, the CFPB doesn't have the full authority to protect consumers who use nonbank financial institutions such as payday lenders, credit-reporting agencies, and debt collectors, which are services many working families depend on, as well as so many of our Nation's veterans and servicemembers. This isn't right. We created the CFPB to protect all families and consumers, and we need to confirm a Director to give them the tools they need to do that.

I was proud to support President Obama's appointment of Elizabeth Warren to help set up the new Bureau. I think she did a fantastic job, and I am deeply disappointed that Republicans were so opposed to her work standing up for middle-class families against the big banks that they said they would block any attempt to name her as full-time Director. I thought the way Elizabeth Warren was treated by Senate Republicans was truly shameful. But she hasn't given up, and she is still fighting for the middle-class families and consumers she has always been such a passionate advocate for.

I am very glad that President Obama nominated another strong advocate for the middle-class to fill this role. Richard Cordray has been serving as the Chief of Enforcement at the CFPB, so he understands the mission and the need to fight for the rules that protect consumers. He previously served as attorney general and State treasurer in Ohio, where he amassed a strong record of standing up for seniors, investors, business owners, and consumers. He has received support from Democrats and Republicans, and he is the right man for the job.

But the Republicans who have come out in opposition to this nomination don't seem to be opposing Richard Cordray. They seem to be opposed to the very idea that anyone should be in a position to stand up for consumers and families in the financial products market. They want to keep this position open because they are worried that this agency is going to have too much power.

Well, the Consumer Financial Protection Bureau was designed to have power. It was created to put that power in the hands of middle-class families and consumers and to take some away from the big banks and credit card companies that had it all before.

So once again we have a simple choice before us in the Senate: Do you stand up for middle-class families who deserve to be protected from scams and financial gimmicks or do you stand up for the big banks and Wall Street firms that are scared to death that a powerful consumer advocate will cut into their fat profits and big bonuses? I know where the American people stand. I stand with them. And I truly hope that Republicans have a change of heart and stand with us to confirm this highly capable and effective nominee so the CFPB can do the job the American people expect and deserve.

Mrs. BOXER. Mr. President, I wish to express my strong support for the President's nomination of Richard Cordray to be the first Director of the Consumer Financial Protection Bureau, CFPB. Mr. Cordray is an exceptionally well-qualified nominee who deserves an up-or-down vote in the Senate.

The opposition to this nomination has nothing to do with Mr. Cordray's credentials and is yet another attempt by Republicans to undermine the CFPB and stop it from cracking down on unscrupulous and fraudulent practices by big banks, credit card companies, payday lenders, and other financial firms.

The CFPB was established as part of the Dodd-Frank financial reform legislation that overhauled our banking system. Before the financial crisis, no single agency coordinated Federal consumer protection. Banks and financial companies could choose their own regulator, which enabled them to avoid regulations with real teeth. The failure of Federal agencies to coordinate and the lack of any effective consumer watchdog agency allowed financial firms to pursue deceitful lending practices that hurt American families and caused the worst recession since the Great Depression.

The CFPB was created to solve this problem and to make sure that financial markets work for all Americans, not just big business. The CFPB has already begun reviewing many areas of consumer protection law, including mortgage disclosure forms. It will enforce new rules for credit cards, require mortgage servicers to better assist homeowners in avoiding foreclosure, and enforce new rules on bank overdraft fees.

President Obama appointed Elizabeth Warren, a respected law professor and dedicated consumer advocate, to set up the CFPB. Elizabeth Warren was selected for her long history of independent, unflinching consumer advocacy, and under her leadership the CFPB had a running start. But Republicans adamantly opposed her as CFPB director, before she had even been nominated. They knew she would crack down on abusive practices in the banking and credit card industries. And they know that by law, the CFPB cannot exercise its full authority without a confirmed Director. That is why 44 Republican Senators signed a letter promising to oppose any nominee, of any party, until their demands to cut back the agency's power and independence are met.

Mr. Cordray would be an outstanding leader of the CFPB. He currently leads the CFPB's Enforcement Division. He has built his career around protecting the public interest, reflecting his commitment to consumers and his dedication to fairness. After having been a State Representative, Solicitor General and Treasurer in the State of Ohio, Mr. Cordray was elected Attorney General of Ohio in 2008. In this role, he prosecuted fraudulent foreclosures and predatory lending, and recovered more than $2 billion for Ohio's retirees, investors, and business owners.

Mr. Cordray's nomination has broad, bipartisan support. Attorneys General from 37 States, representing both political parties, signed a letter in support of this nomination, calling him ''both brilliant and balanced,'' with a ''superior knowledge of the financial services marketplace.'' Sixty-one mayors from around the country, led by Mayor Villaraigosa of Los Angeles, also wrote to support his confirmation. The California Reinvestment Coalition, Center for Responsible Lending, Consumers Union, Main Street Alliance, NAACP, National Association of Consumer Advocates, AFL–CIO, AFCSME, International Brotherhood of Teamsters, SEIU, UAW, and UFCW have all expressed support for Mr. Cordray, and for confirming a director so that the CFPB can operate as intended.

It is stunning that Republicans continue to block any effort to rein in the type of reckless and abusive behavior that caused the worst economic crisis since the Great Depression.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, it never ceases to amaze me to hear my colleagues whose first loyalty is to Wall Street banks, who continue to make excuses for being against putting a consumer cop on the beat. This is an office that will be a few-hundred-million-dollar office, this consumer protection—this consumer cop on the beat.

But this consumer cop on the beat has to look at trillions of dollars in mortgages, has to protect consumers when there are $30 billion in overdraft fees alone that banks are charging, when many times those overdraft fees are because consumers simply cannot figure out the fine print and do not understand the terms of the agreement.

In the end, again, people on this floor and their special interest friends in the Congress, the friends of the Wall Street banks, the friends of these interest groups that continue to fleece the American people—if we had had Rich Cordray or Elizabeth Warren, for that matter, the consumer cop on the beat, would we have had those kinds of foreclosures in places such as Cleveland and Dayton? Would we have had these fly-by-night mortgage brokers from Ameriquest and New Century and others moving in and taking advantage of people? I am not sure we would have.

But my Republican colleagues, my colleagues who always do the bidding—not all of them, but many of them always do the bidding of these special interest groups that have inflicted far too much damage on this economy—I hear all this, that if we would just make some changes in the agency. I talked to the Senate Historian because I have heard these arguments: If we just change this agency, I would vote for it. First of all, I talked to the Senate Historian, who said: Never in the history of the Senate has one political party tried to block the nomination of a Presidential appointee based on wanting to change the agency. It is nothing about the qualifications of Rich Cordray. I know Rich Cordray better than anybody in this institution. He is from my State. He was our attorney general. He was the State treasurer. He was county treasurer. He was a State legislator. I have known Rich for over 20 years. I know he is qualified. Many of my colleagues on both sides say he is qualified.

But they say: We want to change the agency. We worked with Republicans to change this agency as it went through the process in Dodd-Frank. They kept shifting the goalposts. In order to accommodate Republican concerns, we made the CFPB a bureau at the Federal Reserve. Many of us thought it should be totally independent. We were willing to make that concession in order to get Republican support.

They then, after we did that, asked for regular GAO audits of the books. They got them. The GAO said the CFPB passed with flying colors. They said: We do not like Elizabeth Warren, give us someone else. Elizabeth Warren withdrew. She was a great consumer activist, would have been very good at this. We are replacing her—the President is—with Richard Cordray from Ohio. He will do this job well.

Then, after he is appointed, they say—and Richard Cordray has support from banks and credit unions and consumer groups. That is still not good enough. They asked the President not to recess appoint a Director. The President agreed to that. They are moving the goalposts. Now they are saying they will not approve anyone to serve as the Director of the consumer bureau unless we change the Bureau.

In other words, to protect their Wall Street friends, they are saying: We are not going to allow a Director to be in place unless we weaken this agency. As Senator REED from Rhode Island said, would we not appoint a Director of the Food and Drug Administration in the future until we rolled back all food safety laws? Are we not going to protect the Consumer Products Bureau in the government, in the Department of Commerce, until we roll back child toy safety laws? That makes no sense.

This was voted with more than 60 votes—61 or 62, if I recall—a supermajority in this Congress 2 years ago. We allowed all kinds of amendments. We accepted many changes that Republicans wanted. But in the end, it is a choice: Are we for consumers or are we for Wall Street? We know who it is. I am not asking my colleagues to vote for him. I am asking my colleagues to let us have an up-or-down vote. Let us vote on it. Do not filibuster. Do not block the vote.

Understand, this is a vote coming up that is to break a filibuster, to break a Republican filibuster, where Republican Senators almost always are flacking for Wall Street. They do that. It never ceases to amaze me.

So all we ask is an up-or-down vote. Vote yes for cloture so we can have an up-or-down vote for Attorney General Cordray.

I yield the floor and ask for a ''yes'' vote.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SHELBY. I yield back my time.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection:

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Patty Murray, Patrick J. Leahy, Kent Conrad, Sheldon Whitehouse, Jack Reed, Benjamin L. Cardin, Barbara Boxer, Al Franken, Max Baucus, Richard J. Durbin, Robert Menendez, Jon Tester, Sherrod Brown, Tom Harkin, Tim Johnson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection, for a term of 5 years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 223 Ex.]

YEAS—53

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (MA)	Landrieu	Schumer
Brown (OH)	Lautenberg	Shaheen
Cantwell	Leahy	Stabenow
Cardin	Levin	Tester
Carper	Lieberman	Udall (CO)
Casey	Manchin	Udall (NM)
Conrad	McCaskill	Warner
Coons	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	

NAYS—45

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Blunt	Hatch	Murkowski
Boozman	Heller	Paul
Burr	Hoeven	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Sessions
Collins	Johnson (WI)	Shelby
Corker	Kirk	Thune
Cornyn	Kyl	Toomey
Crapo	Lee	Vitter
DeMint	Lugar	Wicker

ANSWERED ''PRESENT''—1

Snowe

NOT VOTING—1

Kerry

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45, and one Senator responded ''present.'' Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the cloture vote on the nomination of Mr. Richard Cordray to be Director of the Consumer Financial Protection Bureau. If I were able to attend today's session, I would have supported cloture on this nomination.

LEGISLATIVE SESSION

MIDDLE CLASS TAX CUT ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the Senate will resume legislative session and the motion to proceed to S. 1944, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 1944) to create jobs by providing payroll tax relief for middle-class families and businesses, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. LEE. I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEE. Mr. President, I stand today to urge my colleagues to support efforts to bring forward a balanced budget amendment, one that can be passed out of both Houses of Congress and submitted to the States for ratification.

Article V of the Constitution gives us the power to change the Constitution from time to time, to modify our laws, that 224-year-old document that has fostered the development of the greatest civilization the world has ever known.

We have done this 27 times. We have done it at times in order to protect and preserve the Nation our ancestors fought so valiantly to create and later again to defend. We have to modify our government, the manner in which we do business, in order to preserve that system, in order to make it strong, in order to ensure that it will continue to be strong for future generations.

We made it stronger when, for example, we added the Bill of Rights shortly after the ratification of the Constitution. We made it stronger again when, for example, we added the so-called Civil War amendments, amendments XIII, XIV, and XV, ending slavery and the badges and incidents thereof. We made it stronger when we made clear that women must always be given the right to vote. We have made it stronger a number of times. And the time to make it stronger has come yet again.

It is time to modify the Constitution to limit—to restrict—Congress's current power granted by article I, section 8, clause 2 of the Constitution to borrow money on credit of the United States. The reason we need to do this is because this power has been so severely abused over such a prolonged period of time that it is causing devastating consequences for our economy and for our ability to fund the operations of the government.

We have now accumulated over $15 trillion in debt as a country. That works out to about $50,000 for every man, woman, and child in America. It works out, arguably, to about $120,000 to $150,000 for every taxpayer in America. This is lot of money. It also represents between 90 and 100 percent of our gross domestic product annually, depending on whose statistics you follow. This is troubling, given that there is an abundant amount of research indicating that once a country's sovereign debt-to-GDP ratio crosses the significant 90-percent threshold—which we have now done—economic growth tends to slow, tends to slow to a point that an economy as large as ours can expect to lose as many as 1 million jobs a year. We can't afford to lose jobs, especially when we know one of the major causes is our national debt. It is time we change the way we do business. It is time to change the manner in which Congress acquires new debt.

This is no longer an issue that is either Republican or Democrat, that is either liberal or conservative. It is simply American. I remind my colleagues, whether you are concerned on the one hand about preserving America's leading edge, its ability to fund its national defense program or, on the other hand, if you are most concerned about funding our entitlement programs, you should want a balanced budget amendment because this is what we need to do, this is what we have to do in order to protect our ability to fund both of those things and everything else we do, you see, because by the end of this decade, according to the White House's own numbers, we will be paying close to $1 trillion every year to pay the interest on our national debt. Just the interest alone. We are currently spending a little over $200 billion a year on interest—still a lot of money but about $800 billion lower than what we are likely to be spending by the end of this decade.

Where will that additional $800 billion every single year come from? This isn't a discretionary sum. This is money we have to pay. It is the first thing we have to pay. Where will that $800 billion difference be made up? At that point, we can't expect simply to raise taxes to make up that difference. I am not aware of any tax increase plan that could bring in that much additional revenue every year, without stagnating our economy to the point that we might, within 1 year or 2 years, bring in less revenue rather than more—certainly not $800 billion more. Nor am I aware of any plan whereby we could simply borrow an additional $800 billion to pay that interest, because doing so, of course, would cause our interest rates to skyrocket, grow out of control, and our interest payments would be even more significant at that point, thus further impairing our ability to fund everything from defense to entitlements. So at that point, the only option on the table would be dramatic, severe, abrupt, even Draconian cuts to everything from defense to entitlements and everything in between. We don't want this. There is a better way. And the better way forward consists of a severe permanent structural spending reform that can be achieved only through a balanced budget amendment.

Let me explain what I mean by that. And, more importantly, let me explain what I don't mean by that.

We have to be aware of things that masquerade as balanced budget amendments, things that will actually do the job instead of purporting to do the job, distracting the public's attention away from the need to do this while in effect doing nothing. We need to be aware of what I sometimes call the Trojan horse balanced budget amendment proposal.

There are a few hallmarks of what a real, effective balanced budget amendment would accomplish. First and foremost, it has to apply to all spending in requiring Congress to provide a supermajority vote for any borrowing authority. There are some who have suggested we should have a balanced budget amendment that exempts certain categories of entitlement spending. But, of course, as we all know, it is entitlement spending that continues to